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11-12-2006

(60)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

CORAM : HON'BLE SHRI S.R.NAYAK, CJ.
HON'BLE SHRI V.K.SHRIVASTAVA, J.

Writ Petition (C) No. 6377 of 2006

Petitioner — Chhattisgarh Electrical Contractors, Association through its President, Shri M.K. Padhiar, S/o Late Shri R.K. Padhiar; Aged about 60 years, R/o 61-Gujarati School Building, K.K. Road, Raipur, District - Raipur (CG).

Versus

Respondents

1. Chhattisgarh State Electricity Board, Through its Chairman-cum-Managing Director, Danganiya Raipur, District - Raipur (CG).
2. The Chief Engineer (O&M), Chhattisgarh State Electricity Board Gudhiyari, Raipur, District - Raipur (CG).

Present :- Shri P. Diwakar, Senior Advocate with Shri P.K. Bhaduri, counsel for the petitioner.

Shri A.S.Geharwar, counsel for the respondents.

ORAL ORDER
(Dated 11th December, 2006)

The following oral order of the Court was passed by **S.R. Nayak, CJ. :**

The first respondent is a Government undertaking. The petitioner is an Association of Electrical Contractors with 52 numbers and according to them, they undertake installation, operation & maintenance works of 33 KV Sub Stations of respondent No.1 - Board. The members of the petitioner Association are all Class - A Contractors, who are eligible to undertake work of High Tension Lines and, therefore, have turnover, which is more than Rs.50 lacs.

The first respondent has allowed unemployed Diploma/Degree holder Electrical Engineers of Chhattisgarh State, and the Society

(61)

constituted and registered by them and also retired Electrical Engineers and Technical Employees (Line Inspector or above) of T&D Wing to participate in the bidding for grant of tender for operation of 33 KV Sub Stations.

In this writ petition, the petitioner Association has assailed the action of the first respondent in granting relaxation in favour of unemployed Diploma/Degree holder Electrical Engineers of Chhattisgarh State and also retired Electrical Engineers and Technical Employees (Line Inspector or above) of T&D Wing.

It is contended that reservation of 10% of quantity of proposed 33/11 KV S/s works in favour of unemployed Diploma/Degree holder Electrical Engineers and the retired Electrical Engineers and Technical Employees (Line Inspector or above) of T&D Wing each is arbitrary and violative of Article 14 postulates. It is also contended that relaxation of conditions, turnover and experience criteria, in the case of retired Electrical Engineers and Technical Employees (Line Inspector or above) of T&D Wing is also arbitrary and unreasonable. With these allegations, the petitioner Association has sought for quashing of the impugned notice dated 31.10.2006, marked as Annexure P/4, issued by the second respondent and consequential reliefs.

At the time of hearing, learned counsel appearing for the respondent - Board placed before us a copy of a corrigendum No.2 bearing No. CE/O&M/Tender/NIT, Raipur, dated 30.11.2006, whereby and where-under, 10% quantity of works reserved for the retired Electrical Engineers and Technical Employees has been withdrawn, and that 10% quantity of work earlier reserved in favour of unemployed Diploma/Degree holder Electrical Engineers has been increased to 20%. The said copy of

(6)

the corrigendum No.2 is placed on record and the same shall form part of the record.

We have heard learned counsel for the parties.

Shri Diwakar, learned Senior counsel appearing for the petitioner, would submit that the reservation of 20% works made in favour of the unemployed Engineers and the relaxation of conditions in favour of the retired Electrical Engineers and Technical Employees and also unemployed Engineers is arbitrary, unreasonable and the said action of the respondent - Board could not be sustained on the touchstone of Article 14 of the Constitution.

We do not think so. The power of the respondent - Board to relax conditions in favour of certain categories of persons cannot be doubted at all. The only thing to be seen by the Court when such relaxation or exemption is granted is whether the exemption and relaxation so made is based on any relevant consideration germane to granting exemption and relaxation. The exemption with regard to turnover and experience criteria has been granted in favour of the retired Electrical Engineers and Technical Staff of Chhattisgarh State Electricity Board subject to the condition that those retired employees who seek exemption should furnish a certificate issued by a competent authority to the effect that they have worked in operation & maintenance of distribution system or EHV S/s for a minimum period of 10 years. Therefore, it cannot be said that exemption granted in favour of the retired Electrical Engineers of SEB or Power Supply Utility is not based on relevant consideration germane to the granting exemption. Similarly, the quota of 20% reserved in favour of unemployed Diploma/Degree holder Electrical Engineers and the exemption granted to them, it cannot be said, is not based on relevant considerations. There is a sound rationale behind the reservation made in

(63)

favour of the unemployed Diploma/Degree holder Electrical Engineers and the exemption granted to them, having regard to the technical qualification possessed by that category of persons. The Courts are not experts to assess with a surgeon's scissors the relevancy and social utility behind a prescription or an exemption. A reasonable latitude should be allowed to the Board like the respondent - Board to sub serve the societal interest in general and the interest of the Board in particular. It is nobody's case that the exemption is granted and reservation is provided in favour of the unemployed Diploma/Degree holder Electrical Engineers and the retired Engineers of the Board on any collateral or extraneous consideration. In the absence of such plea and proof, no exception could be taken to the reservation made and exemption granted by the Board in favour of well defined classes of persons. The wrath of Article 14 is not attracted to the reservation made and the exemption granted by the respondent -Board.

The Writ Petition is devoid of merit and it is accordingly dismissed.

No costs.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Gowri